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Information Systems, Inc., Toshiba America  
Consumer Products, L.L.C., and  
Toshiba America Electronic Components, Inc.*

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 (SAN FRANCISCO DIVISION)

16 IN RE: CATHODE RAY TUBE (CRT)  
17 ANTITRUST LITIGATION

Case No. 07-5944 JST  
MDL No. 1917

18 This Document Relates to:

19 CERTAIN DIRECT ACTION  
20 PLAINTIFFS' ACTIONS

**DECLARATION OF JONATHAN C.  
BLACK II IN SUPPORT OF TOSHIBA  
DEFENDANTS' ADMINISTRATIVE  
MOTION TO FILE DOCUMENTS  
UNDER SEAL PURSUANT TO CIVIL  
LOCAL RULES 7-11 AND 79-5(d)**

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DECLARATION OF JONATHAN C. BLACK II IN SUPPORT OF  
TOSHIBA DEFENDANTS' ADMINISTRATIVE MOTION TO FILE  
DOCUMENTS UNDER SEAL PURSUANT TO CIVIL LOCAL RULES 7-11 AND 79-5(d)

Case No. 07-5944 JST  
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1 I, Jonathan C. Black II, hereby declare as follows:

2 1. I am an attorney with the law firm of White & Case LLP, counsel for  
3 Defendants Toshiba Corporation, Toshiba America, Inc., Toshiba America Information  
4 Systems, Inc., Toshiba America Consumer Products, L.L.C., and Toshiba America Electronic  
5 Components, Inc. (collectively, the “Toshiba Defendants”). I make this declaration in  
6 support of the Toshiba Defendants’ Administrative Motion to File Documents Under Seal  
7 Pursuant to Civil Local Rules 7-11 and 79-5(d).

8 2. Except for those matters stated on information and belief, which I believe to be  
9 true, I have personal knowledge of the facts set forth herein and, if called upon, could and  
10 would competently testify thereto under oath.

11 3. On June 18, 2008, the Court approved a Stipulated Protective Order (Dkt. No.  
12 306) in this matter.

13 4. The Toshiba Defendants and other parties to this litigation have produced in  
14 this action certain documents and information designated as “Confidential” and “Highly  
15 Confidential” pursuant to the Stipulated Protective Order.

16 5. On November 5, 2015, the Toshiba Defendants filed an administrative motion  
17 to seal the following materials pursuant to Civil Local Rules 7-11 and 79-5(d):

- 18 a. Exhibit 4 to the Declaration of Matthew Frutig in Support of Toshiba’s  
19 Objections to Special Master’s Recommended Order Dated October 21,  
20 2015 Re Plaintiffs’ Motion to Compel Supplemental Discovery from  
21 Toshiba and Panasonic (“Frutig Declaration”), which are the Toshiba  
22 Defendants’ Objections and Responses to the IPPs’ First Set of  
23 Interrogatories to Defendants, dated September 5, 2014, (“Responses to  
24 Common Interrogatories”), each designated by the Toshiba Defendants as  
25 “Confidential” under the Stipulated Protective Order;
- 26 b. Exhibit 5 to the Frutig Declaration, which are the Toshiba Defendants’  
27 Objections and Responses to the IPPs’ Fourth Set of Requests for  
28 Production of Documents to Toshiba Defendants, dated September 5, 2014

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- 1 (“Responses to RFPs”), each designated by the Toshiba Defendants as  
2 “Confidential” under the Stipulated Protective Order;
- 3 c. Exhibit 6 to the Frutig Declaration, which are the Toshiba Defendants’  
4 Objections and Responses to the IPPs’ First Set of Interrogatories to  
5 Toshiba Defendants, dated September 5, 2014 (“Responses to Toshiba  
6 Interrogatories”), each designated by the Toshiba Defendants as  
7 “Confidential” under the Stipulated Protective Order;
- 8 d. Exhibit 7 to the Frutig Declaration, which is the IPPs’ Motion to Compel  
9 Interrogatory Responses, dated September 12, 2014 (“September 12, 2014  
10 Motion to Compel”), designated by the IPPs as “Highly Confidential”  
11 under the Stipulated Protective Order;
- 12 e. Exhibit 8 to the Frutig Declaration, which is the IPPs’ Motion to Compel  
13 Supplemental Discovery Responses, dated September 19, 2014  
14 (“September 19, 2014 Motion to Compel”), designated by the IPPs as  
15 “Highly Confidential” under the Stipulated Protective Order;
- 16 f. Redacted portions of Exhibit 9 to the Frutig Declaration, which is the  
17 Toshiba Defendants’ Response to the September 12, 2014 Motion to  
18 Compel, dated September 26, 2014, specifically attachments 4, 5, and 7 to  
19 that response, which are, respectively the Toshiba Defendants’:  
20 (i) Responses to Common Interrogatories; (ii) Responses to Toshiba  
21 Interrogatories; and (iii) Responses to the DPPs’ First Set of Requests for  
22 Production of Documents, each designated by the Toshiba Defendants as  
23 “Confidential” under the Stipulated Protective Order;
- 24 g. Redacted portions of Exhibit 10 to the Frutig Declaration, which is the  
25 Toshiba and Panasonic Defendants’ Response to Indirect Purchaser  
26 Plaintiffs’ Motion to Compel Supplemental Discovery Responses, dated  
27 October 3, 2014, specifically attachments 6, 8, 9, 10, 12, and 15 to that  
28 response, which are, respectively: (i) Toshiba Corporation’s Responses to

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1 RFPs; (ii) Toshiba Corporation's Responses to Common Interrogatories;  
 2 (iii) Toshiba Corporation's Responses to Toshiba Interrogatories; (iv) the  
 3 September 12, 2014 Motion to Compel; (v) Toshiba Corporation's  
 4 Supplemental Objections and Responses to Interrogatory Seven of IPPs'  
 5 First Set of Interrogatories to Defendants; and (vi) excerpts from the  
 6 transcript of the deposition of Kazutaka Nishimura, dated June 12, 2014,  
 7 each designated by the Toshiba Defendants or the IPPs as either  
 8 "Confidential" or "Highly Confidential" under the Stipulated Protective  
 9 Order;

- 10 h. Exhibit 11 to the Frutig Declaration, which is the IPPs' Reply to the  
 11 Toshiba Defendants' Response to the IPPs' Motion to Compel  
 12 Interrogatory Responses, dated October 3, 2014, designated by the IPPs as  
 13 "Highly Confidential" under the Stipulated Protective Order; and  
 14 i. Exhibit 12 to the Frutig Declaration, which is the IPPs' Reply to Toshiba's  
 15 and Panasonic's Joint Response to IPPs' Motion to Compel Further  
 16 Interrogatory Responses, dated October 10, 2014, designated by the IPPs  
 17 as "Highly Confidential" under the Stipulated Protective Order.

18 6. Because Toshiba's Objections to Special Master's Recommended Order Dated  
 19 October 21, 2015 Re Plaintiffs' Motion to Compel Supplemental Discovery from Toshiba  
 20 and Panasonic is not a dispositive motion, "a 'particularized showing' under the 'good cause'  
 21 standard of Rule 26(c) will 'suffice[ ] to warrant preserving the secrecy of sealed discovery  
 22 material attached to non-dispositive motions.'" *Kamakana v. City & Cnty. of Honolulu*, 447  
 23 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto. Ins. Co.*, 331 F.3d  
 24 1122, 1135 (9th Cir. 2003)). The documents listed in paragraph 5 contain confidential, non-  
 25 public information about the Toshiba Defendants' sales practices, business and supply  
 26 agreements, and competitive positions. They describe relationships with companies —  
 27 including customers and vendors — that remain important to the Toshiba Defendants'  
 28 competitive positions. Upon information and belief, publicly disclosing this sensitive

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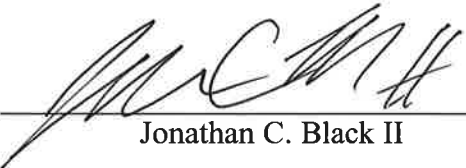
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1 information presents a risk of undermining the Toshiba Defendants' relationships, would  
2 cause harm with respect to the Toshiba Defendants' competitors and customers, and would  
3 put the Toshiba Defendants at a competitive disadvantage. Accordingly, under Rule 26(c)  
4 good cause exists for this Court to maintain the documents listed in paragraph 5 under seal.  
5 *Kamakana*, 447 F.3d at 1180 ("A 'good cause' showing under Rule 26(c) will suffice to keep  
6 sealed records attached to non-dispositive motions.") (citing *Foltz*, 331 F.3d at 1135).

7 7. Pursuant to Civil Local Rules 7-11 and 79-5(d), this Court's General Order  
8 No. 62, Electronic Filing of Documents Under Seal, effective May 10, 2010, this Court's  
9 Standing Order Governing Administrative Motions to File Materials Under Seal, dated  
10 October 1, 2013, and the Stipulated Protective Order, Exhibits 4-8, 11, 12 in their entirety,  
11 and the redacted portions of Exhibits 9 and 10 should be maintained under seal.

12 I declare under penalty of perjury under the laws of the United States of America that  
13 the foregoing is true and correct.

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15 Executed this 5<sup>th</sup> day of November, 2015, in Washington, DC.

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19 Jonathan C. Black II

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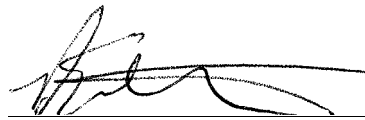
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**CERTIFICATE OF SERVICE**

On November 5, 2015, I caused a copy of "DECLARATION OF JONATHAN C. BLACK II IN SUPPORT OF TOSHIBA DEFENDANTS' ADMINISTRATIVE MOTION TO FILE DOCUMENTS UNDER SEAL PURSUANT TO CIVIL LOCAL RULES 7-11 AND 79-5(d)" to be electronically filed via the Court's Electronic Case Filing System, which constitutes service in this action pursuant to the Court's order of September 29, 2008.



Dana E. Foster

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